

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSE VAZQUEZ,

Plaintiff,
-v-
1:18-CV-1071
(DNH/DJS)

TINA STANDFORD, Chairperson, New York
State Division of Parole; MICHAEL ASTRUE,
Commissioner, Social Security Administration,
or other acting in their official capacity;
DAVID STUKOWY, Commissioner of Human
Resources; and SAMUEL D. ROBERTS,
Commissioner (SSI),

Defendants.

APPEARANCES:

JOSE VAZQUEZ
Plaintiff Pro Se
122 Dickerson Street
Syracuse, New York 13204

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Jose Vazquez brought this civil complaint while incarcerated, but has since been released. On October 9, 2018, the Honorable Daniel J. Stewart, United States Magistrate Judge, advised by Report-Recommendation that pursuant to 28 U.S.C. § 1915 and 28 U.S.C. § 1915(A), the complaint be dismissed for failure to state a claim as follows: (1) allegations in the complaint regarding the illegality of plaintiff's conviction and alleged assaults while in the custody of the Department of Corrections and Community

Supervision in 2011 and 2012 be dismissed with prejudice; and (2) the remaining allegations be dismissed without prejudice. Magistrate Judge Stewart recommended that plaintiff be provided an opportunity to amend his complaint to correct the format and properly present the facts which would support his claim for entitlement to relief. No objections to the Report-Recommendation have been filed.

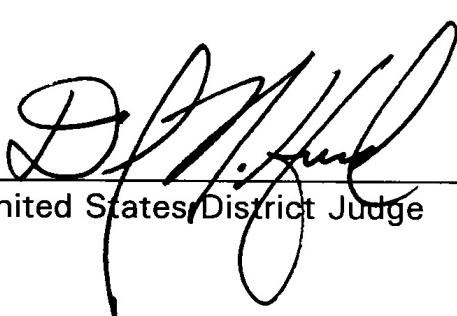
Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Allegations in the complaint regarding the illegality of plaintiff's conviction and alleged assaults while in the custody of the Department of Corrections and Community Supervision in 2011 and 2012 are DISMISSED WITH PREJUDICE;
2. The remaining allegations are DISMISSED WITHOUT PREJUDICE and plaintiff is provided an opportunity to amend his complaint within thirty (30) days of the date of this Decision and Order to correct the format and properly present the facts which would support his claim for entitlement to relief;
3. If plaintiff files a timely amended complaint, it be forwarded to the Magistrate Judge for review; and
4. If plaintiff fails to file an amended complaint within thirty (30) days of the date of this Decision and Order, the complaint will be dismissed in its entirety.

IT IS SO ORDERED.



United States District Judge

Dated: February 4, 2018
Utica, New York.